

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOHN T. MCWHORTER,

Plaintiff,

v.

DEPARTMENT OF CORRECTIONS, *et al.*

Defendants.

CASE NO. 3:24-cv-05146-KKE-GJL

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

The Court has reviewed the Report and Recommendation of Magistrate Judge Grady J. Leupold, dated October 21, 2024, to which no objections have been filed. Upon consideration of the Report and Recommendation and the remainder of the record, the Court does hereby find and ORDER:

- (1) The Court adopts the Report and Recommendation. Dkt. No. 17.
- (2) The Amended Complaint remains deficient and is therefore dismissed as Plaintiff (a) seeks relief only available in habeas corpus, (b) asserts claims that are barred by the doctrine in *Heck v. Humphrey*, 512 U.S. 477 (1994), (c) sues individuals and entities that are immune from suit and may not be sued under 42 U.S.C. § 1983, and (d) fails to state a viable claim for relief.
- (3) Grounds (c) and (d) provide for dismissal with prejudice and constitute a strike under 28 U.S.C. § 1915(g).

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1 (4) The Clerk is directed to send copies of this Order to Plaintiff and to the Hon. Grady
2 J. Leupold.

3 Plaintiff's motion to remove civil complaint (Dkt. No. 18) is terminated.

4 **DATED** this 5th day of November, 2024.

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7 Kymberly K. Evanson
8 United States District Judge
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